

FORTY-FIFTH DAY

FRIDAY, APRIL 4, 1997

PROCEEDINGS

The Senate met at 9:00 a.m. pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Armbrister, Barrientos, Bivins, Brown, Cain, Carona, Duncan, Ellis, Fraser, Gallegos, Galloway, Harris, Lindsay, Lucio, Luna, Madla, Moncrief, Nelson, Ogden, Patterson, Ratliff, Shapiro, Shapleigh, Sibley, Truan, Wentworth, West, Zaffirini.

Absent-excused: Haywood, Nixon, Whitmire.

The President announced that a quorum of the Senate was present.

Senate Chaplain, the Reverend John R. Pitts, offered the invocation as follows:

Calm us, Lord, and refresh us. Calm us to do Your task in the ever increasing busyness and hecticness of our daily lives. Calm our spirits as confusion and weariness overcome us. Calm us as we seek Your will in all that we do.

Refresh us. Give us time over this day and the next few days to reflect—reflect on the accomplishments of our yesterdays and the challenges of our tomorrows. Give us time to be—to be with our loved ones—to be with ourselves—and to be with You.

Give us, Lord, Your peace—that peace that truly passes all understanding. And, as You offer that peace to us, may we have the wisdom to recognize it and accept it. Bless us, Lord. Amen.

On motion of Senator Truan and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

LEAVES OF ABSENCE

On motion of Senator Truan, Senator Nixon was granted leave of absence for today on account of important business.

On motion of Senator Truan, Senator Haywood was granted leave of absence for today on account of important business.

On motion of Senator Truan, Senator Whitmire was granted leave of absence for today on account of important business.

CO-AUTHORS OF SENATE BILL 31

On motion of Senator Ratliff and by unanimous consent, Senators Wentworth and West will be shown as Co-authors of **SB 31**.

CO-AUTHOR OF SENATE BILL 66

On motion of Senator Moncrief and by unanimous consent, Senator West will be shown as Co-author of **SB 66**.

CO-AUTHOR OF SENATE BILL 113

On motion of Senator Moncrief and by unanimous consent, Senator West will be shown as Co-author of **SB 113**.

CO-AUTHOR OF SENATE BILL 217

On motion of Senator Zaffirini and by unanimous consent, Senator Shapleigh will be shown as Co-author of **SB 217**.

CO-AUTHOR OF SENATE BILL 834

On motion of Senator Armbrister and by unanimous consent, Senator Truan will be shown as Co-author of **SB 834**.

CO-AUTHOR OF SENATE BILL 1129

On motion of Senator Madla and by unanimous consent, Senator Lucio will be shown as Co-author of **SB 1129**.

CO-AUTHOR OF SENATE BILL 1199

On motion of Senator Lucio and by unanimous consent, Senator Moncrief will be shown as Co-author of **SB 1199**.

CO-AUTHOR OF SENATE BILL 1810

On motion of Senator Barrientos and by unanimous consent, Senator Lucio will be shown as Co-author of **SB 1810**.

MESSAGE FROM THE HOUSE

HOUSE CHAMBER
Austin, Texas
Friday, April 4, 1997

The Honorable President of the Senate
Senate Chamber
Austin, Texas

Mr. President:

I am directed by the House to inform the Senate that the House has taken the following action:

THE HOUSE HAS PASSED THE FOLLOWING MEASURES:

HB 16, Relating to authority of the comptroller to enter certain agreements with credit card issuers benefitting state parks.

HB 163, Relating to accelerated payment or assignment of life insurance benefits under the Texas Employees Uniform Group Insurance Benefits Act.

HB 171, Relating to the penalty for a false application for a driver's license or a certificate issued by the Department of Public Safety.

HB 212, Relating to the advisory function of the Texas Radiation Advisory Board.

HB 213, Relating to the composition and duties of the radiation advisory board.

HB 242, Relating to the signature of a notary public on behalf of an individual with a disability.

HB 243, Relating to identification of individuals executing certain documents.

HB 394, Relating to required equipment for racing shells, rowing sculls, and racing kayaks.

HB 412, Relating to the statutory county courts in Dallas County.

HB 480, Relating to the responsibilities of the district attorney for the 142nd Judicial District.

HB 501, Relating to the law applicable to interlocal contracts made by local governments.

HB 527, Relating to the sale or lease of superconducting super collider property given to a county by the United States Department of Energy.

HB 565, Relating to eligibility for and payment of unemployment compensation benefits.

HB 567, Relating to the operation and administration of the state unemployment compensation system.

HB 591, Relating to fees and costs for certain mental health proceedings.

HB 649, Relating to the use of unmarked motor vehicles by county fire marshals.

HB 706, Relating to granting the Bastrop County Water Control and Improvement District No. 2 the powers and duties of a road district.

HB 718, Relating to the appointment of a fire commissioner in certain rural fire prevention districts.

HB 724, Relating to transfers of contributions to the optional retirement program for faculty members of institutions of higher education.

HB 732, Relating to the jurisdiction of the Anderson County Court at Law.

HB 736, Relating to the creation of municipal courts of record in Lake Worth.

HB 758, Relating to the sales and use tax rate of certain hospital districts.

HB 776, Relating to a municipal drainage utility system.

HB 786, Relating to statistics gathered by the Texas Judicial Council.

HB 791, Relating to the authority of the Office of Court Administration to request, accept, and administer gifts, grants, and donations.

HB 794, Relating to intergovernmental contracting by certain hospital districts.

HB 799, Relating to short-term obligations issued by certain counties.

HB 833, Relating to the exemption of state-owned real property from forced sale.

HB 882, Relating to designating property as a homestead.

HB 889, Relating to disclosure of certain health care information by a hospital employee to a patient's clergyperson.

HB 901, Relating to the board of directors of the Hopkins County Hospital District.

HB 908, Relating to the appointment of counsel to represent a defendant in a criminal case.

HB 911, Relating to the management of persons with communicable diseases.

HB 950, Relating to the inactive status of the Texas Soybean Producers Board.

HB 963, Relating to the attachment and amount of certain agricultural liens.

HB 971, Relating to the jurisdiction of county criminal courts in Dallas County.

HB 993, Relating to the application for and use of the proceeds of loans guaranteed by the Young Farmer Loan Guarantee Program.

HB 1018, Relating to court costs imposed on persons convicted of certain offenses.

HB 1025, Relating to certain fees charged by vehicle storage facilities.

HB 1040, Relating to the salaries of statutory county court judges.

HB 1052, Relating to standards for the storage of eggs.

HB 1142, Relating to the determination of the inmate population of a county jail.

HB 1143, Relating to the creation of the County Court at Law of Lamar County.

HB 1145, Relating to labeling of bison and buffalo products and to the exemption from ad valorem taxation of bison; providing a criminal penalty.

HB 1152, Relating to the definition of statutory probate court.

HB 1206, Relating to the composition of the Municipal Solid Waste Management and Resource Recovery Advisory Council.

HB 1238, Relating to the appointment of a public defender by the Commissioners Court of Tom Green County.

HB 1296, Relating to the notice of a sale or an exchange of land by a political subdivision.

HB 1403, Relating to the statutory county courts of Smith County.

HB 1602, Relating to dry fire hydrants.

HB 1630, Relating to the requirements for certain agricultural fences.

HB 1651, Relating to the resale of property sold to a taxing unit pursuant to foreclosure of an ad valorem tax lien.

HB 1979, Relating to the selection of the chairman of the juvenile board in Fort Bend County.

HB 2170, Relating to late fees for a person licensed to process radioactive materials.

HB 2664, Relating to the liability of certain persons for injury to others that occurs on agricultural land used for recreation.

HCR 64, Directing the state's medical schools to make certain changes in their curriculum.

Respectfully,

/s/Sharon Carter, Chief Clerk
House of Representatives

SENATE BILL 249 WITH HOUSE AMENDMENTS

Senator Sibley called **SB 249** from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

Amendment

Amend **SB 249** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED AN ACT

relating to the telecommunications infrastructure fund.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 3.606(a), Public Utility Regulatory Act of 1995 (Article 1446c-0, Vernon's Texas Civil Statutes), is amended by amending Subdivision (5) and adding Subdivisions (10) and (11) to read as follows:

(5) "School district" includes an independent school district, a common school district, and a rural high school district ~~[has the meaning assigned by Section 19.001, Education Code]~~.

(10) "Public school" means a public elementary or secondary school, including an open-enrollment charter school, a home-rule school district school, and a school with a campus or campus program charter.

(11) "Taxable telecommunications receipts" means taxable telecommunications receipts reported under Chapter 151, Tax Code.

SECTION 2. Section 3.606, Public Utility Regulatory Act of 1995 (Article 1446c-0, Vernon's Texas Civil Statutes), is amended by amending Subsections (j)-(u) and adding Subsections (w) and (x) to read as follows:

(j) An annual assessment is imposed on each telecommunications utility and each commercial mobile service provider doing business in this state. The assessment is imposed at the rate of 1.25 percent of the taxable telecommunications receipts of each telecommunications utility and commercial mobile service provider subject to the assessment, subject to Subsection (k) of this section.

(k) The total amount deposited to the credit of the fund, excluding interest and loan repayments, may not exceed \$1.5 billion. Not later than August 31 of each year, the comptroller shall determine the total amount, excluding interest and loan repayments, that has been deposited to the credit of the fund during that fiscal year and the preceding fiscal years. If the comptroller determines that a total of \$1.2 billion or more, excluding interest and loan repayments, has been deposited to the credit of the fund, the comptroller shall impose the assessment during the next fiscal year at a rate that the comptroller estimates is sufficient to produce the amount necessary to result in the deposit in the fund of a total of not more than \$1.5 billion, excluding interest and loan repayments. The comptroller may not collect the assessment during a fiscal year if the comptroller determines after the yearly review that the total amount deposited to the credit of the fund during that fiscal year and the preceding fiscal years is \$1.49 billion or more, excluding interest and loan repayments, and it is not possible to impose the assessment during the next fiscal year at a practical rate without collecting more than a total of \$1.5 billion, excluding interest and loan repayments.

~~(l) [The fund is composed of the telecommunications utilities account and the commercial mobile service providers account. The telecommunications utilities account is financed by an annual assessment on all telecommunications utilities doing business in this state. Each telecommunications utility shall pay the annual assessment in accordance with the ratio that the annual taxable telecommunications receipts reported by that telecommunications utility under Chapter 151, Tax Code, bears to the total annual taxable telecommunications receipts reported by all telecommunications utilities under Chapter 151, Tax Code.]~~

~~[(k) The commercial mobile service providers account is financed by an annual assessment on all commercial mobile service providers doing business in this state. Each commercial mobile service provider shall pay the annual assessment in accordance with the ratio that the annual taxable telecommunications receipts reported by that provider under Chapter 151, Tax Code, bears to the total annual taxable telecommunications receipts reported by all commercial mobile service providers under Chapter 151, Tax Code.]~~

~~[(t) For the fiscal year beginning September 1, 1995, and for the nine fiscal years immediately following that year, for a total of 10 years, the comptroller shall assess and collect a total annual amount of \$75 million from~~

~~telecommunications utilities and a total annual amount of \$75 million from commercial mobile service providers. The amounts assessed against both the telecommunications utilities and the commercial mobile service providers shall be assessed and collected in each year without respect to whether all of the funds previously collected and deposited in either or both accounts have been disbursed or spent due to lack of demand or otherwise.~~

~~[(m)]~~ The comptroller may require telecommunications utilities and commercial mobile service providers to provide any reports and information as are needed to fulfill the duties of the comptroller provided by this section. Any information provided to the comptroller by a telecommunications utility or commercial mobile service provider under this section is confidential and exempt from disclosure under Chapter 552, Government Code.

~~(m) The comptroller shall deposit 50 percent of the [(n) A#] amounts collected by the comptroller [from telecommunications utilities] under Subsection (j) [(#)] of this section [shall be deposited] to the credit of the public schools [telecommunications utilities] account in the telecommunications infrastructure fund in the state treasury. The comptroller shall deposit the remainder of the [A#] amounts collected by the comptroller under Subsection (j) of this section [from commercial mobile service providers under Subsection (t) of this section shall be deposited] to the credit of the qualifying entities [commercial mobile service providers] account in the telecommunications infrastructure fund in the state treasury. Interest earned on money in an account shall be deposited to the credit of that account. Money in the fund may be appropriated only for a use consistent with the purposes of this section. [Sections 403.094 and 403.095, Government Code, do not apply to the fund or either account.]~~

~~(n) [(#)]~~ From funds appropriated to the board, the comptroller shall issue warrants as requested by the board in accordance with the purposes of this section, including warrants to grantees of the board in amounts certified by the board to the comptroller.

~~(o) [(#)]~~ In addition to any appropriated funds, the board may accept gifts, grants, and donations and use them for the purposes of this section.

~~(p) [(#)]~~ The board shall use money in the public schools ~~[telecommunications utilities]~~ account to award grants and loans in accordance with this section to fund equipment ~~[purchases]~~, including computers, printers, computer labs, and video equipment, for public schools and for intracampus and intercampus wiring to enable those public schools to use the equipment. The board shall use money in the qualifying entities ~~[commercial mobile service providers]~~ account for any purpose authorized by this section, including equipment ~~[purchases]~~, wiring, material, program development, training, installation costs, or any statewide telecommunications network.

~~(q) [(#)]~~ Subject to the limitations prescribed by Subsection (p) ~~[(#)]~~ of this section, the board may award grants to projects and proposals that:

(1) provide equipment and infrastructure needed for distance learning, information sharing programs of libraries, and telemedicine services;

(2) develop and implement the initial or prototypical delivery of courses and other distance learning material;

(3) train teachers, faculty, librarians, or technicians in the use of distance learning or information sharing materials and equipment;

(4) develop curricula and instructional material especially suited for delivery by telecommunications;

(5) provide electronic information; or

(6) establish or carry out information sharing programs.

(r) ~~(s)~~ Subject to the limitations prescribed by Subsection (p) ~~(t)~~ of this section, the board may award loans to projects and proposals to acquire equipment needed for distance learning and telemedicine projects.

(s) ~~(t)~~ In awarding grants and loans in accordance with this section, the board shall give priority to projects and proposals that:

(1) represent collaborative efforts involving multiple schools, universities, or libraries;

(2) contribute matching funds from other sources;

(3) show promise of becoming self-sustaining;

(4) help users of information learn new ways to acquire and use information through telecommunications;

(5) extend specific educational information and knowledge services to groups not previously served, especially those in rural and remote areas;

(6) result in more efficient or effective learning than through conventional teaching;

(7) improve the effectiveness and efficiency of health care delivery; or

(8) take advantage of distance learning opportunities in rural and urban school districts with disproportionate numbers of at-risk youths or with high dropout rates.

(t) The board shall adopt a master plan for infrastructure development. The plan must cover a five-year period and be updated annually. The plan must describe the project, timeline, and resource allocation targets for each year included in the plan. The board shall publish each proposed amendment to the plan and each proposed annual update in the Texas Register in accordance with Subchapter B, Chapter 2002, Government Code.

(u) The Texas Higher Education Coordinating Board, the Texas ~~Central~~ Education Agency, and the Texas State Library and Archives Commission shall adopt policies and procedures in consultation with the board that are designed to aid the board in achieving the purposes of this section.

(w) The board may adopt rules as necessary to administer this section.

(x) If a board member is an employee of an entity that applies for a grant or loan under this section, the board member, before a vote on the grant or loan, shall disclose the fact of the member's employment. The disclosure must be entered into the minutes of the meeting. The board member may not vote on or otherwise participate in the awarding of the grant or loan. If the board member does not comply with this subsection, the entity is not eligible for the grant or loan.

SECTION 3. (a) A reference in law to the telecommunications utilities account means the public schools account. A reference in law to the

commercial mobile service providers account means the qualifying entities account.

(b) On the effective date of this Act:

(1) money in the telecommunications utilities account is transferred to the public schools account; and

(2) money in the commercial mobile service providers account is transferred to the qualifying entities account.

(c) The validity of an act done, an obligation incurred, or a right accrued before the transfer of money under Subsection (b) of this section is not affected by the transfer.

SECTION 4. (a) This Act takes effect on the first day of the first calendar quarter beginning on or after the earliest date that it may take effect under Section 39, Article III, Texas Constitution, and applies only to an assessment that accrues on or after that date.

(b) The change in law made by this Act does not affect liability for an assessment that accrued before the effective date of this Act. That liability continues in effect as if this Act had not been enacted, and the former law is continued in effect for the collection of an assessment due and for civil and criminal enforcement of the liability for that assessment.

SECTION 5. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force according to its terms, and it is so enacted.

Floor Amendment No. 1

Amend CSSB 249 in SECTION 1 of the bill, in amended Section 3.606(j), Public Utility Regulatory Act of 1995 (Article 1446c-0, Vernon's Texas Civil Statutes), on page 2, at the end of line 5, by inserting the following:

"The obligation to pay the assessment imposed by this subsection is the obligation of the telecommunications utility or commercial mobile service provider and may not be billed directly to the consumer."

Floor Amendment No. 1 on Third Reading

Amend CSSB 249 on third reading in SECTION 2 of the bill by striking the last sentence of Section 3.606(j), Public Utility Regulatory Act of 1995 (Article 1446c-0, Vernon's Texas Civil Statutes), as added by the Smithee amendment adopted on 2nd reading, and Substituting the following: The obligation to pay the assessment imposed by this subsection is the obligation of the telecommunications utility or commercial mobile service provider and, to the extent not prohibited or preempted by federal law, may not be separately stated on a customer's bill.

The amendments were read.

Senator Sibley moved that the Senate do not concur in the House amendments, but that a conference committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed.

The President asked if there were any motions to instruct the conference committee on **SB 249** before appointment.

There were no motions offered.

The President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Sibley, Chair; Madla, Lucio, Shapiro, and Haywood.

SENATE BILL 1703 REREFERRED

On motion of Senator Bivins and by unanimous consent, **SB 1703** was withdrawn from the Committee on Finance and was rereferred to the Committee on Education.

SENATE BILL 1907 REREFERRED

On motion of Senator Bivins and by unanimous consent, **SB 1907** was withdrawn from the Committee on Finance and was rereferred to the Committee on Education.

COMMITTEE SUBSTITUTE SENATE BILL 31 ON SECOND READING

Senator Ratliff asked unanimous consent to suspend the regular order of business to take up for consideration at this time:

CSSB 31, Relating to the powers and duties of agencies in the executive, legislative, and judicial branches of state government, including authorizations for and restrictions on the use of state funds and the compensation of employees and contractors.

There was objection.

Senator Ratliff then moved to suspend the regular order of business and take up **CSSB 31** for consideration at this time.

The motion prevailed by the following vote: Yeas 25, Nays 3.

Yeas: Armbrister, Barrientos, Bivins, Brown, Cain, Carona, Duncan, Fraser, Galloway, Harris, Lindsay, Lucio, Luna, Madla, Moncrief, Ogden, Patterson, Ratliff, Shapiro, Shapleigh, Sibley, Truan, Wentworth, West, Zaffirini.

Nays: Ellis, Gallegos, Nelson.

Absent-excused: Haywood, Nixon, Whitmire.

CSSB 31 was read second time and was passed to engrossment by a viva voce vote.

RECORD OF VOTES

Senators Ellis, Gallegos, and Nelson asked to be recorded as voting "Nay" on the passage of the bill to engrossment.

**COMMITTEE SUBSTITUTE
SENATE BILL 31 ON THIRD READING**

Senator Ratliff moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 31** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 25, Nays 3.

Yeas: Armbrister, Barrientos, Bivins, Brown, Cain, Carona, Duncan, Fraser, Galloway, Harris, Lindsay, Lucio, Luna, Madla, Moncrief, Ogden, Patterson, Ratliff, Shapiro, Shapleigh, Sibley, Truan, Wentworth, West, Zaffirini.

Nays: Ellis, Gallegos, Nelson.

Absent-excused: Haywood, Nixon, Whitmire.

CSSB 31 was read third time and was passed by a viva voce vote.

RECORD OF VOTES

Senators Ellis, Gallegos, and Nelson asked to be recorded as voting "Nay" on the final passage of the bill.

STATEMENT OF LEGISLATIVE INTENT

Senator West submitted the following statement of legislative intent for **SB 31**:

Members, I recognize that the issue of Historically Underutilized Business (HUB) has and continues to be very explosive. Some have questioned whether the language found in Section 43 of the bill "Economically disadvantage person" dismantles the ethnic and gender goals promulgated by the General Services Commission. I think that my statement will lend clarity to this issue if any dispute ever rises.

My statement of legislative intent is critical because Senator Wentworth and I were requested to draft the language in Sections 1 and 38 through 49 of the Committee Substitute to Senate Bill 31, which was adopted by the working group and incorporated by Senator Ratliff in the Committee Substitute to Senate Bill 31.

Members, it is important to recognize that although we have gone to a race neutral definition, implementation of the HUB program still in part remains race and gender specific. The "economically disadvantage person" definition incorporates language referring to those groups identified in the State's Disparity Study. Section 45 requires all state agencies as defined in Section 43, to adopt rules promulgated by the General Services Commission. The General Services Commission has promulgated gender and ethnic specific good faith rules. Thus, upon passage of the bill, all State Agencies would still be required to have ethnic and gender specific goals.

This is a good bill which addresses numerous other issues including the confidentiality of business records required for certification as a HUB, the State Auditor's good faith audit of State Agencies, and a business assistance program for HUBs.

Mr. President, thank you for this opportunity to explain what I believe to be very critical sections of this Bill.

WEST

SENATE BILL 973 ON SECOND READING

On motion of Senator Barrientos and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

SB 973, Relating to the State Cemetery and the creation of the State Cemetery Committee.

The bill was read second time.

Senator Barrientos offered the following committee amendment to the bill:

Committee Amendment No. 1

Amend **SB 973** as follows:

On page 5, line 17, between the word "justice," and "oil" add "military affairs," and law enforcement

On page 6 add the following at the beginning of line 11:

(s) The committee may accept a gift, grant, or bequest of money, securities, services, or property to carry out any purpose of the committee, including funds raised or services provided by a volunteer or volunteer group to promote the work of the committee. The committee may participate in the establishment and operation of an affiliated nonprofit organization whose purpose is to raise funds for or provide services or other benefits to the committee and the committee may contract with such an organization for the performance of such activities.

The committee amendment was read and was adopted by a viva voce vote.

SB 973 as amended was passed to engrossment by a viva voce vote.

SENATE BILL 973 ON THIRD READING

Senator Barrientos moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 973** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 0.

Absent-excused: Haywood, Nixon, Whitmire.

SB 973 was read third time and was passed by a viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 258 ON SECOND READING**

On motion of Senator Ellis and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

CSSB 258, Relating to coverage under certain health benefit plans of tests for the detection of prostate cancer.

The bill was read second time and was passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 258 ON THIRD READING**

Senator Ellis moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 258** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 0.

Absent-excused: Haywood, Nixon, Whitmire.

CSSB 258 was read third time and was passed by a viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 217 ON SECOND READING**

On motion of Senator Zaffirini and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

CSSB 217, Relating to coverage under certain health benefit plans for reconstructive surgery incident to a mastectomy.

The bill was read second time and was passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 217 ON THIRD READING**

Senator Zaffirini moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 217** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 0.

Absent-excused: Haywood, Nixon, Whitmire.

CSSB 217 was read third time and was passed by a viva voce vote.

SENATE BILL 580 ON SECOND READING

On motion of Senator Duncan and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

SB 580, Relating to application of the professional prosecutors law to the county attorney of Crosby County.

The bill was read second time and was passed to engrossment by a viva voce vote.

SENATE BILL 580 ON THIRD READING

Senator Duncan moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 580** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 0.

Absent-excused: Haywood, Nixon, Whitmire.

SB 580 was read third time and was passed by a viva voce vote.

SENATE BILL 834 ON SECOND READING

On motion of Senator Armbrister and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

SB 834, Relating to the authority of a county to operate a water or sewer utility in unincorporated areas of a county, including the authority to issue bonds and to acquire property through eminent domain.

The bill was read second time.

Senator Armbrister offered the following committee amendment to the bill:

Committee Amendment No. 1

Amend **SB 834** as follows:

Beginning on page 2, line 11, strike proposed subsection (d) and insert proposed subsection (d) in lieu thereof:

(d) A county must comply with all requirements of a public utility in Chapter 13 of the Texas Water Code.

The committee amendment was read and was adopted by a viva voce vote.

SB 834 as amended was passed to engrossment by a viva voce vote.

RECORD OF VOTE

Senator Ellis asked to be recorded as "Present-not voting" on the passage of the bill to engrossment.

SENATE BILL 834 ON THIRD READING

Senator Armbrister moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 834** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 27, Nays 0, Present-not voting 1.

Present-not voting: Ellis.

Absent-excused: Haywood, Nixon, Whitmire.

SB 834 was read third time and was passed by a viva voce vote.

RECORD OF VOTE

Senator Ellis asked to be recorded as "Present-not voting" on the final passage of the bill.

(Senator Gallegos in Chair)

SENATE BILL 298 ON THIRD READING

On motion of Senator Ratliff and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its third reading and final passage:

SB 298, Relating to juvenile court detention orders.

The bill was read third time.

Senator Shapleigh offered the following amendment to the bill:

Floor Amendment No. 1

Amend **SB 298** on third reading as follows:

In SECTION 1 of the bill, in amended Section 54.01(h), Family Code, strike the last sentence in the subsection (Committee Printing, page 1, lines 18 and 19) and substitute "Each subsequent detention order shall extend for no more than 10 working days, except that in a county with a population of less than 250,000, each subsequent detention order shall extend for no more than 20 working days."

The amendment was read and was adopted by unanimous consent.

SB 298 as amended was finally passed by a viva voce vote.

COMMITTEE SUBSTITUTE SENATE BILL 872 ON SECOND READING

On motion of Senator Madla and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

CSSB 872, Relating to the retirement system for firefighters and police officers in certain municipalities.

The bill was read second time and was passed to engrossment by a viva voce vote.

COMMITTEE SUBSTITUTE SENATE BILL 872 ON THIRD READING

Senator Madla moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 872** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 0.

Absent-excused: Haywood, Nixon, Whitmire.

CSSB 872 was read third time and was passed by a viva voce vote.

SENATE BILL 819 ON SECOND READING

Senator Carona asked unanimous consent to suspend the regular order of business to take up for consideration at this time:

SB 819, Relating to the design, manufacture, and sale of certain commemorative items relating to the state.

There was objection.

Senator Carona then moved to suspend the regular order of business and take up **SB 819** for consideration at this time.

The motion prevailed by the following vote: Yeas 21, Nays 6.

Yeas: Armbrister, Bivins, Cain, Carona, Fraser, Gallegos, Lindsay, Lucio, Luna, Madla, Nelson, Ogden, Patterson, Ratliff, Shapiro, Shapleigh, Sibley, Truan, Wentworth, West, Zaffirini.

Nays: Barrientos, Brown, Duncan, Ellis, Harris, Moncrief.

Absent: Galloway.

Absent-excused: Haywood, Nixon, Whitmire.

SB 819 was read second time.

Senator Carona offered the following amendment to the bill:

Floor Amendment No. 1

Amend **SB 819** as follows:

(1) In SECTION 1 of the bill, in added Section 2172.006, Government Code (committee printing page 1), strike lines 17-20 and substitute the following:

(1) an official state lapel pin for purchase by members and former members of the house of representatives;

(2) an official state lapel pin for purchase by members and former members of the senate;

(3) an official state ring for purchase by members and former members of the house of representatives; and

(4) an official state ring for purchase by members and former members of the senate.

(b) The commission must submit any design of an official state lapel pin or ring to the State Preservation Board for its approval.

(2) In SECTION 1 of the bill, in added Section 2172.006, Government Code (committee printing page 1, line 21), strike "(b)" and substitute "(c)".

(3) In SECTION 1 of the bill, in added Section 2172.006, Government Code (committee printing page 1, lines 25-27), strike added Subsection (c) and substitute the following:

(d) The commission by rule shall establish the purchase price for a lapel pin or ring. After payment of amounts required under the contract and recovery of its costs of administering this section, the commission

shall deposit any remaining funds received from the sale of items under this section to the credit of the Texas preservation trust fund.

The amendment was read and was adopted by a viva voce vote.

SB 819 as amended was passed to engrossment by the following vote:
Yeas 24, Nays 4.

Yeas: Armbrister, Barrientos, Bivins, Cain, Carona, Ellis, Fraser, Gallegos, Galloway, Lindsay, Lucio, Luna, Madla, Nelson, Ogden, Patterson, Ratliff, Shapiro, Shapleigh, Sibley, Truan, Wentworth, West, Zaffirini.

Nays: Brown, Duncan, Harris, Moncrief.

Absent-excused: Haywood, Nixon, Whitmire.

SENATE BILL 819 ON THIRD READING

Senator Carona moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 819** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 23, Nays 5.

Yeas: Armbrister, Bivins, Cain, Carona, Ellis, Fraser, Gallegos, Galloway, Lindsay, Lucio, Luna, Madla, Nelson, Ogden, Patterson, Ratliff, Shapiro, Shapleigh, Sibley, Truan, Wentworth, West, Zaffirini.

Nays: Barrientos, Brown, Duncan, Harris, Moncrief.

Absent-excused: Haywood, Nixon, Whitmire.

SB 819 was read third time and was passed by the following vote:
Yeas 22, Nays 6.

Yeas: Armbrister, Bivins, Cain, Carona, Fraser, Gallegos, Galloway, Lindsay, Lucio, Luna, Madla, Nelson, Ogden, Patterson, Ratliff, Shapiro, Shapleigh, Sibley, Truan, Wentworth, West, Zaffirini.

Nays: Barrientos, Brown, Duncan, Ellis, Harris, Moncrief.

Absent-excused: Haywood, Nixon, Whitmire.

COMMITTEE SUBSTITUTE SENATE BILL 381 ON SECOND READING

On motion of Senator Shapiro and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

CSSB 381, Relating to the civil and criminal consequences of a grant of deferred adjudication for a sexual offense or a sexually assaultive offense and to the prosecution of certain defendants charged with or convicted of those offenses.

(President in Chair)

The bill was read second time and was passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 381 ON THIRD READING**

Senator Shapiro moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 381** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 0.

Absent-excused: Haywood, Nixon, Whitmire.

On motion of Senator Shapiro and by unanimous consent, further consideration of **CSSB 381** was postponed.

Question—Shall **CSSB 381** be read third time?

SENATE BILL 1352 ON SECOND READING

On motion of Senator Truan and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

SB 1352, Relating to licensing and regulation of certain pilots, pilotage rates, and pilot service.

The bill was read second time and was passed to engrossment by a viva voce vote.

SENATE BILL 1352 ON THIRD READING

Senator Truan moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 1352** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 0.

Absent-excused: Haywood, Nixon, Whitmire.

SB 1352 was read third time and was passed by a viva voce vote.

SENATE BILL 927 ON SECOND READING

On motion of Senator Lindsay and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

SB 927, Relating to the authority of the Texas Department of Transportation to acquire certain real property.

The bill was read second time.

Senator Shapiro offered the following amendment to the bill:

Floor Amendment No. 1

Amend **SB 927** as follows:

In SECTION 1, Sec. 203.0521(a), strike Paragraph (1) and substitute the following: "(1) the remainder has little or no value or utility to the owner".

The amendment was read and was adopted by a viva voce vote.

SB 927 as amended was passed to engrossment by a viva voce vote.

SENATE BILL 927 ON THIRD READING

Senator Lindsay moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 927** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 0.

Absent-excused: Haywood, Nixon, Whitmire.

SB 927 was read third time and was passed by the following vote: Yeas 28, Nays 0. (Same as previous roll call)

**COMMITTEE SUBSTITUTE
SENATE BILL 381 ON THIRD READING**

The Senate resumed consideration of **CSSB 381** on its third reading and final passage. The Constitutional Three-day Rule was suspended and further consideration was postponed.

CSSB 381, Relating to the civil and criminal consequences of a grant of deferred adjudication for a sexual offense or a sexually assaultive offense and to the prosecution of certain defendants charged with or convicted of those offenses.

Question—Shall **CSSB 381** be read third time?

The bill was read third time and was passed by a viva voce vote.

GUESTS PRESENTED

Senator Nelson was recognized and introduced to the Senate a group of students visiting the Capitol today from Russia.

The Senate welcomed its guests.

MEMORIAL RESOLUTIONS

SR 439 - by Luna: In memory of James A. Howden of San Antonio.

SR 440 - by Truan: In memory of Johnny Bilano of Corpus Christi.

ADJOURNMENT

On motion of Senator Truan, the Senate at 10:16 a.m. adjourned until 11:00 a.m. Monday, April 7, 1997.

APPENDIX

COMMITTEE REPORTS

The following committee reports were received by the Senate:

April 4, 1997

CRIMINAL JUSTICE — SB 907

ECONOMIC DEVELOPMENT — SB 706, SB 1498, SB 1894, CSSB 70, CSSB 1499, CSSB 1896, CSSB 1897

EDUCATION — CSSB 1356, CSSB 806

JURISPRUDENCE — CSSJR 36, SB 1385 (Amended), CSSB 1173

INTERNATIONAL RELATIONS, TRADE, AND TECHNOLOGY — CSSB 1518

INTERGOVERNMENTAL RELATIONS — CSSB 859, SB 1055 (Amended)

INTERNATIONAL RELATIONS, TRADE, AND TECHNOLOGY — CSSB 1512

INTERGOVERNMENTAL RELATIONS — CSSB 1830, SB 1277 (Amended), SB 1289 (Amended), SB 1395 (Amended), CSSB 1829

NATURAL RESOURCES — CSSB 1124, SB 1713, SB 1051, SB 1487, HB 520, SB 1465, CSSB 988, CSSB 925, SB 1554, SB 1464 (Amended), SB 469

STATE AFFAIRS — CSSB 657, CSSB 214, CSSJR 14, CSSB 73, CSSB 1065, CSSB 1190, CSSB 755, SB 1386, SB 1088, SB 1101, SB 631, SB 552, SCR 27, SB 1177

FINANCE — SB 874

ECONOMIC DEVELOPMENT — CSSB 1162, CSSB 163, SB 1106 (Amended), CSSB 445

STATE AFFAIRS — CSSB 323